

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL WAYNE STEED,

Plaintiff,

v.

MARY SCOTT, et al.,

Defendant.

CASE NO. C12-6058 RBL-JRC

ORDER DENYING PLAINTIFF'S
MOTION FOR AN OUTSIDE
MEDICAL EVALUATION

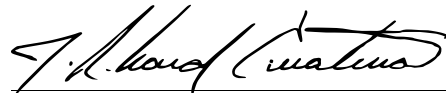
The District Court has referred this 42 U.S.C. §1983 civil rights action to the undersigned Magistrate Judge. The Court's authority for the referral is found in 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judges Rules MJR 1, MJR 3, and MJR 4.

Plaintiff asks the Court to order that plaintiff receive an outside medical evaluation (ECF No. 10). Defendants responded and oppose the motion (ECF No. 11). Part of defendants' argument is that Fed. R. Civ. P. 35 does not give the Court authority to appoint an expert for a party who wishes to examine himself. Defendants also argue that shifting the cost of the examination is not proper. (ECF No. 11). The Court asked for additional briefing because it appeared plaintiff was willing to pay for the examination (ECF No. 19). Further, while Fed. R.

1 Civ. P. 35 may not give the Court authority to appoint an expert, it does give the Court the
2 authority to order defendants to make plaintiff available for examination.

3 The parties have provided the additional briefing and plaintiff makes clear that he is
4 seeking to have defendants or the Court, pay for the examination (ECF No. 20). Defendants are
5 correct in noting that a litigant, even an indigent litigant, does not have a right to shift payment in
6 this manner. *Brown v. United States*, 74 Fed. Appx. 611, 614-15 (7th Cir. 2003), *cert. denied*,
7 540 U.S. 1132 (2004). The motion for an outside medical examination is DENIED.

8 Dated this 5th day of March, 2013.

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11 J. Richard Creatura
12 United States Magistrate Judge
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